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E.O. 12958: DECL: 10/23/2016
TAGS: [PREL](#) [PTER](#) [PHUM](#) [PINS](#) [KAWC](#) [BG](#)
SUBJECT: BANGLADESH GUANTANAMO DETAINEE

REF: A. DHAKA 6335

- [1](#)B. MUBANGU/SZYMANSKI EMAIL 10/19/2006
- [1](#)C. DHAKA 6190
- [1](#)D. STAMMILLO/WONG EMAIL 9/27/2006

Classified By: DCM Geeta Pasi; Reason 1.4(d)+3

[1](#)1. (C) PolOff spoke with MFA Director of the America and Pacific Wing Mahbub Saleh on October 22 to discuss the BDG's October 16 diplomatic note (ref a) regarding the Bangladesh detainee. Saleh acknowledged the note did not expressly respond to the conditions in the Embassy's July 31 diplomatic note. He reiterated Bangladesh's position that the assurances sought by the U.S. were inconsistent with Bangladesh's constitution and laws and therefore the BDG could not provide formal assurances beyond those contained in its October 16 diplomatic note. Nonetheless, he assured PolOff that Bangladesh would accept responsibility for the detainee Mubarak Hussain Hashem, take steps to restrict his travel, and that he would be treated humanely upon his return.

[1](#)2. (C) Previously, Minister of Home Affairs Babar told Ambassador that the assurances the US sought in its July 31 diplomatic note were "unconstitutional" under the Bangladesh constitution. Babar repeated his government's commitment to accept Mubarak Hussain Hashem.

[1](#)3. (C) Asked about USG access to Mubarak, MFA Director Saleh noted that the GOB 16 October response sought specific information about Mubarak so that he could be investigated and appropriate action taken. Salah said that Bangladeshi citizens have rights, but if Mubarak is a terrorist then he would be dealt with according to the laws of Bangladesh. Saleh added that as a practical matter, the GOB would want to question him and ensure he does not present a problem to Bangladesh. Pressed on access, Mahbub alluded to constitutional and legal issues protecting the rights of Bangladeshi citizens, but noted that the BDG and USG have a good working relationship.

[1](#)4. (C) Comment: The BDG has reaffirmed its willingness to cooperate, while insisting that the conditions sought by the US exceed the BDG's authority under its own laws. We believe the MFA and Home Ministry position on this point is firm and that neither is prepared to make a formal commitment beyond that contained in the October 16 diplomatic note. Their offer of less formal assurances on the other points is an attempt to bridge the difference so the transfer can take place. Moreover, the current government's term ends officially on October 27 and unofficially on October 23, the last working day before Eid-ul-Fitr, leaving this government no time to revisit the issue. An interim caretaker government will govern until national elections are held in early January. The caretaker government is not empowered to make policy decisions, although we would expect it to abide by decisions taken by the current government. Under these conditions, we do not believe further high-level

interventions at this time would bring about a change in the
BDG position. End comment.
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